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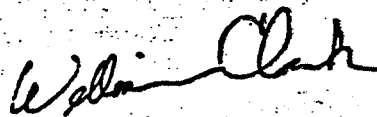
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MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE SECRETARY OF TRANSPORTATION
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THE DIRECTOR, OFFICE OF MANAGEMENT
AND BUDGET
THE DIRECTOR OF CENTRAL INTELLIGENCE
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UNITED NATIONS
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CHAIRMAN, COUNCIL OF ECONOMIC ADVISORS
CHAIRMAN, JOINT CHIEFS OF STAFF
ADMINISTRATOR, ENVIRONMENTAL PROTECTION
AGENCY
DIRECTOR, NATIONAL SCIENCE FOUNDATION

SUBJECT: U.S. Oceans Policy and Law of the Sea
(NSDD-58) (C)

The President has approved the attached National Security
Decision Directive on United States Oceans Policy and Law of
the Sea. (C)

FOR THE PRESIDENT:



William P. Clark

NSC review completed.

Attachment
NSDD on Oceans Policy
and LOS

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JUL 23, 1982

Executive Registry

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The Editor
 Washington Post
 1150 15th St., N.W.
 Washington, D.C. 20071

To: Bill Casey

From: Bob Kautsky

So far, I think we're
 losing the PR battle on
 the Lortonky!

Letter to the Editor:

The article by Mary McGrory on the Law of the Sea treaty (July 22) contains several inaccuracies. I would like to comment on these statements which are misleading and should be corrected.

First, President Reagan did not disregard the facts concerning the Law of the Sea treaty, nor did he ignore advice of his senior people. On the contrary, the President went to exceptional lengths to get the facts on the treaty and to reach an agreement on the treaty. Very early in his administration, he saw that many of the provisions of the treaty were not in conformity with our national interests and economic and political principles. Accordingly, he directed that an exhaustive Administration-wide review be made of the treaty. This thorough analysis clearly revealed for the first time the many major deficiencies of the treaty text. Following a detailed discussion of the results of the review, President Reagan stipulated six objectives which needed to be met in the Law of the Sea negotiations. A maximum effort was then made by the U.S. Delegation to the UNCLOS Conference to achieve those goals. However, the negotiating effort failed. The final treaty text which emerged from the Conference did not accommodate even one of the President's stated objectives. All of our key national interests with respect to ocean mineral resources were totally rejected by the Third World and Soviet bloc delegations. Under these circumstances, President Reagan could hardly have been expected to abandon economic and political principles that sustain our society for the sake of a fundamentally flawed treaty.

Second, ocean mining simply will not be commercially viable under the Law of the Sea treaty. It actually deters efficient mining of the seabeds, and it fails to provide our American miners with assured access to ocean minerals. This result would deprive the United States of a supply of certain strategic and critical minerals needed for our industry and defense. The American companies now comprising the deep-sea mining industry have made it clear that they could not and would not invest money under the treaty. Moreover, commercial banks will not lend money for mining operations under the treaty. Fortunately, there is a reasonable opportunity of achieving an alternative seabed mining regime now being pursued by the Reagan Administration.

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Third, as eminent legal scholars have pointed out, the treaty's navigation provisions would not provide the United States with unambiguous free transit of straits for our military and commercial ships and planes. Nor would they provide assurances that freedoms of navigation and communication would be preserved against infringements of the treaty's 200-mile wide economic zones by foreign coastal nations. Since the advantages of the treaty's navigation provisions are not readily apparent, we should not be hasty in abandoning customary international law that provides the United States with navigation rights that are centuries-old in their use and interpretation and are every bit as good as those of the treaty.

Fourth, Mary McGory in interviewing Elliot Richardson and Leigh Ratiner avoided the fundamental question of how many of our basic economic and political principles must be sacrificed for such a treaty. For example, the treaty's production limitations on seabed mining run directly counter to our strong belief in the free market system. American mining companies would be compelled to turn over their proprietary seabed mining and processing technology on an uncertain compensation basis to the UN-owned mining company, the Enterprise, as a condition to their mining ocean minerals. Moreover, the treaty provides for funding of terrorist groups such as the PLO. The treaty's interpretation of the "Common Heritage of Mankind" is contrary to our interpretation that property ownership of seabed resources devolves upon those who take the risks to identify the resources and develop them. In this context, how many American principles would be too many for Messrs. Richardson and Ratiner to sacrifice for the sake of the treaty? Obviously, four principles would be too few to scrap for these architects of so much that is wrong with the Law of the Sea treaty.

The world is not ready for a United Nations "one-nation, one-vote" global management scheme that at enormous cost to the U.S. taxpayer would control the development and exploitation of deep seabed resources covering two-thirds of the earth's submerged lands. Such global management of the earth's resources represents the substitution of UN administrative organs and bureaucracy for the free play of basic economic forces in the market place. It gives the Third World the power to decide what we firmly believe free enterprise should decide.

Robert B. Keating
Robert B. Keating
Member, U.S. Delegation
to the Third U.N. Conference
on the Law of the Sea

Sailing the Sea Treaty Shoals

Without the Lighthouse of Fact

Mary McGrory

The president's penchant for not confusing himself with the facts is well known. In the case of the Law of the Sea treaty, he seems to have gone to exceptional lengths.

Washington Post Staff Writer Lou Cannon has passed on what President Reagan said at the National Security Council meeting at which he decided not to sign a treaty that covers two-thirds of the world's surface and took 14 years to negotiate:

"We're policed and patrolled on land, and there is so much regulation that I kind of thought that when you go out on the high seas you can do what you want," he said, proud apparently that no data clogged his mind.

To preserve his ignorance, Reagan never consulted the man who could have set him straight. Elliot L. Richardson, appointed by Jimmy Carter as a representative to the Law of the Sea Conference, spent four years negotiating the draft convention.

Richardson, a notoriously able and proper Bostonian, indispensable to Richard M. Nixon until 1974 when he refused to fire Watergate Special Prosecutor Archibald Cox, never got closer to the Reagan throne than Counselor Edwin Meese III, whom he saw a year ago.

Meese, whose approach to complex foreign policy questions is acceptably ideological, presided over a fatal meeting at which the decision was effectively made to scuttle the sea treaty.

Ironically, initial impetus for the Law of the Sea came from Reagan's favorite government department, Defense. The Joint Chiefs of Staff were anxious to secure international agreements for safe passage of submarines through straits and coastal waters.

But, as the president indicated, the very idea of anything being put beyond the grasp of U.S. business interests is anathema. Almost immediately after taking office, he ordered a review and fired leaders of the U.S. negotiating team. They were suspected of having been "seduced" by long exposure to subversive elements in the United Nations, under whose auspices the

The U.N. view of the sea as "the common heritage of mankind" was dangerous nonsense to Reagan. The notion that we would compete with uppity Third World countries for rights to mine the seabeds was an affront. Reagan felt that proposed establishment of an International Seabed Authority was the most unconscionable aspect of the whole contraption.

Some in inner White House councils advocated outright U.S. withdrawal from the conference. They lost, but not really. According to Leigh Ratiner, a former lobbyist

for Kennecott Corp. and Reagan's hand-picked choice to bargain for a better mining deal, the Reaganites gave him such rigid instructions that he was practically forbidden to make small concessions that would have led to genuine compromise and advantage. He was under secret orders to bring about a "frontier mining code" for the bounding main.

On April 30, the United States was one

of four countries to vote against the Law of the Sea. We have not been isolated since we cast the world's sole nay vote last year against adoption of the code covering infant formula.

What Reagan ended up doing, in the minds of most of the world, was shooting himself in the foot. He has succeeded in excluding U.S. interests from mining rights he thought he was protecting.

Triumphant treaty opponents have assured U.S. miners that they can ignore the treaty and make "mini-treaties" with their allies.

Not so, Richardson says. If he had been given a chance to explain the realities to the president, he says, he would have told him that there "will be no U.S. undersea mining outside the treaty, except under a foreign flag."

As a practical matter, claims outside the treaty would be subject to litigation in the World Court, making banks leery of loaning the vast sums needed for such enterprises.

Richardson says he would also have explained, had he ever made it to the Oval Office, that the United States cannot expect to boycott the treaty and take for

granted navigational safeguards under international law—"We cannot pick and choose among rights and obligations."

Under Reagan, the pro-treaty defense line broke. Pentagon ideologues held the strategic minerals under the seabed constitute "national security" interests. In the "damn the treaty" spirit, Navy Secretary John F. Lehman Jr. said, "We can blast our way through the straits."

Richardson tried to express caution to national security adviser William P. Clark, who suggested that he deal with a staff member.

This week, Richardson went before a House committee studying the treaty wreckage. Several conservative members questioned his patriotism and intelligence for having participated in an international cabal against U.S. business. He replied tartly that, having been considered fit to serve in four Cabinet posts, he did not regard himself as either stupid or subversive.

He does not think the treaty is sunk forever. Another administration may reconsider.

Who knows? Another president might even ask him about it.